

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Elena Victorovna Montesanto,

Case No. 2:21 -cv-0378-JAD-BNW

Petitioner,

v.

**Order Dismissing the Petition for Failure
to File Response to Order to Show Cause
and Failure to Comply with Local Rules**

Robert M. Wilkinson, et al.,

Respondents.

Pro se Petitioner Elena Victorovna Montesanto filed a petition for writ of habeas corpus under 28 U.S.C. § 2241,¹ seeking review of her immigration proceedings. Montesanto indicated that she filed an appeal with the BIA regarding an immigration judge's ("IJ") denial of her application for adjustment of status.² But she provided no details regarding any motion for bond determination or request for bond hearing before the immigration court. On June 21, 2021, I ordered her to show cause why this action should not be dismissed for failure to exhaust administrative remedies³ by July 21, 2021.⁴ Montesanto was warned that her failure to timely and fully comply with the order would result in the dismissal of this action without prejudice and without further advance notice.⁵

Additionally, Montesanto failed to keep the court apprised of her current address, and the U.S. Postal Service has returned court mail from the last institutional address she provided. The Local Rules of Practice require all parties, including habeas petitioners, to immediately file with the court written notice of any change of address.⁶ The Local Rules also warn that failure to comply may result in dismissal of the action, with or without prejudice, or other sanctions as the

¹ ECF No. 1.

² ECF No. 1 at 10.

³ ECF No. 3.

⁴ *Id.*

⁵ *Id.*

⁶ LR IA 3-1, LR 2-2.

1 court deems appropriate.⁷

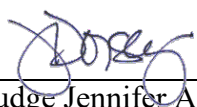
2 To date, Montesanto has not filed a written response to the order to show cause, filed a
3 notice of change of address or taken any other action to further prosecute this case. Because she
4 has failed to comply with my order and with the Local Rules, I dismiss this case.

5 IT IS THEREFORE ORDERED that Petitioner Elena Victorovna Montesanto's Petition
6 for Writ of Habeas Corpus [ECF No. 1] is **DENIED without prejudice**.

7 IT IS FURTHER ORDERED that **a certificate of appealability is denied** because jurists
8 of reason would not find dismissal of the petition to be debatable or wrong.

9 **The Clerk of Court is directed to:**

- 10 • **ADD** Nevada Attorney General Aaron D. Ford as counsel for Respondents and
11 informally serve the Nevada Attorney General by directing a notice of electronic
12 filing of this order to his office. No response is required from respondents other
13 than to respond to any orders of a reviewing court; and
14 • **ENTER FINAL JUDGMENT dismissing this action without prejudice and**
15 **CLOSE THIS CASE.**

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19 U.S. District Judge Jennifer A. Dorsey
20 Dated: August 14, 2021
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⁷ *Id.*